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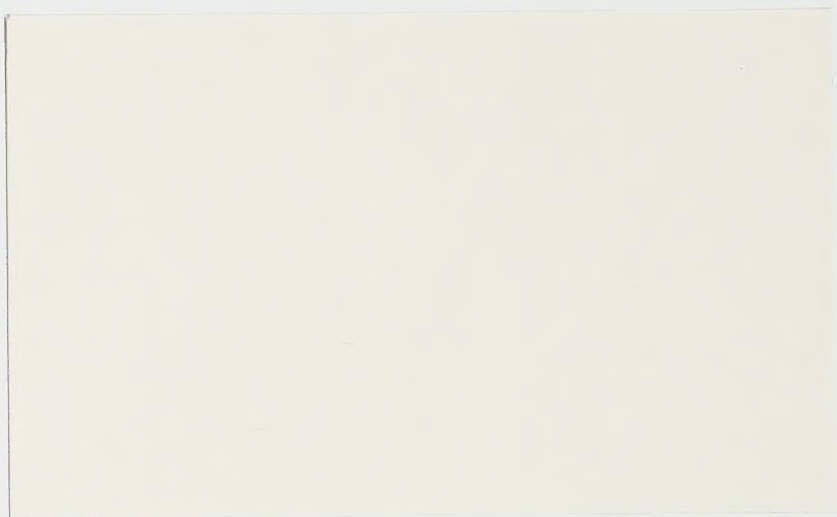
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THE ROLE OF THE BACKBENCHER

Current Issue Paper 103



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INTRODUCTION

Of the 130 Members of the Ontario Legislature only a minority will enter the Cabinet or hold official caucus or House positions. The remaining majority of backbenchers¹ must come to grips with complex and often conflicting conceptions of their role and duty. They are partisan politicians who are expected by their leaders to faithfully espouse their parties' policies in the Legislature and on the hustings; ombudsmen for their constituents; and legislators who are required to familiarize themselves with the details of complex areas of policy. All of these tasks are not only time-consuming but create competing expectations which cannot always be easily reconciled.

This paper offers a brief introduction to the position of the backbencher in the Ontario Legislature. It describes the background of Members, the services available to them in the Legislature, and how backbenchers can participate in the proceedings of the House.

BACKBENCHERS AND LEGISLATURES

The single most important fact about parliamentary politics in contemporary democracies is the influence of political parties. In the words of one scholar, today "representative government is party government."² Members of Westminster style legislatures such as the Legislative Assembly of Ontario are elected on the party label and are subjected to the rigours of party discipline in every aspect of their work as representatives.³ But backbenchers must deal with other claims on their time and energies as well.

Every politician in the era of the service state is required to some degree to become a kind of ombudsman for their constituents. Constituency casework is an abiding preoccupation for every Member and his or her staff. During the session the Legislature does not sit on Fridays expressly so Members can attend to their constituency work. On the other hand, in every legislature there will be a sizeable contingent of backbenchers whose principal ambition is the achievement of office. How they will behave will be influenced by whether they sit on the government or opposition benches. Ambitious opposition backbenchers will seek to impress the Legislature and their party leaders with their debating skills and grasp of policy; government backbenchers are more likely to express their views in the privacy of caucus. Distinct from this group, though the two overlap, will be Members who embrace the historic responsibility of the Legislature to act as a watchdog of the Executive, and endeavour to

monitor the performance of the Cabinet and how it spends the taxpayers' money. All Members, no matter what their ambitions, are required to participate in debates on the floor of the House, shoulder their fair share of committee work, attend caucus meetings and possibly serve on internal caucus committees, such as regional or policy committees. In addition, Members of the opposition parties must accept the responsibility of being their party's critic for a ministry or a particular area of policy.

Each backbencher will make his or her own choice about which of the available opportunities should receive the most attention. In this sense there is no such thing as a typical or average Member. As they pursue their interests at Queen's Park, however, backbenchers may find that they are compelled to mediate the tensions which can arise among their varied obligations. For example, it can be difficult for government backbenchers to shine in the Legislature without running afoul of their cabinet colleagues. Or the knowledge Members acquire about the practical workings of a government program from their constituency work may incline them to disagree with their party's official view of it.

Perhaps the only safe generalization about the role of the backbencher is that offered by a British MP, who has written that the backbencher needs to be "a peculiarly thick-skinned workaholic who has a populist's rapport with people but an intellectual's understanding of problems and issues,"⁴ if he or she is to juggle all of the responsibilities the position entails and prosper in the rough and tumble world of legislative politics.

THE BACKGROUNDS OF THE MEMBERS

Before turning to an analysis of what the Members of the Ontario Legislature do, it is worthwhile determining who the MPPs are.

The most obvious fact about the Members is their gender. Only 19 or 14% of the Members elected in 1995 are female. This is a decline from the 1990 intake of 29, 22% of the total. However, the 1995 figure represents an increase from the 1987 election, which saw only 10 female politicians elected.

Another noteworthy feature of the Ontario Legislature is the high proportion of novices among its members. The following table shows the number of first-time MPPs in the Legislature over the last half century.

TABLE ONE
First-Time MPPs (1943-1995)

Election	Number	Percentage of Total MPPs
1943	62	69%
1945	36	40%
1948	30	33%
1951	33	36%
1955	21	21%
1959	26	27%
1963	41	38%
1967	44	38%
1971	36	31%
1975	45	36%
1977	18	14%
1981	25	20%
1985	40	32%
1987	51	39%
1990	68	52%
1995	71	55%

Since the middle of World War Two, at least 14% and as many as 68% of all MPPs have been new to the Legislature at the start of each parliament. The 1995 and 1990 intakes of new Members are the highest in percentage terms since 1943. Not surprisingly, these figures reflect the large majorities won by the Conservatives and New Democrats respectively in the last two elections: 60 of the 71 new Members in the 36th Parliament are Conservatives, while 57 of the 68 new Members elected to the 35th Parliament in 1990 were New Democrats.

However, a large percentage of Ontario's fledgling politicians have had previous political experience at the local level, either on municipal councils or school boards. According to the biographies published in the *Canadian Parliamentary Guide*, 23 of the MPPs elected to the 35th

Parliament had previously sat on municipal councils, and 18 had served on school boards (many had done both).⁵ The press coverage of the 71 new Members elected in 1995 suggests that roughly one-third entered public life as either municipal councillors or school board trustees.

In his 1989 text *The Ontario Legislature: A Political Analysis*, Professor Graham White offers a comprehensive analysis of the backgrounds of MPPs. On the basis of his research, Professor White concludes that on balance MPPs are much better educated and generally older than the voters. They are disproportionately drawn from small business and professional occupations (primarily teaching and law); relatively few MPPs have backgrounds in what might be termed working class or lower middle class (such as industrial, service, or clerical) jobs. In terms of their religious affiliation and their national origins, Members are remarkably representative of the provincial population, with one significant exception: the vast majority of MPPs come from European backgrounds. Professor White sums up: "The composite picture of the 'typical' Ontario MPP ... is of a middle-aged, well-educated male of Anglo-Celtic or European descent who came to the legislature, after experience in municipal politics, from a middle-class job."⁶ This generalization is still largely accurate, though the 35th Parliament (1990-1995) included a significant number of Members from trade unionist backgrounds.⁷

While it is true that Members of the provincial Legislature do not constitute a typical cross-section of the community, this is also the case for all democratically elected legislatures. As one scholar has put it in describing British MPs, "powerful filters ensure that only certain types"⁸ of individuals arrive at the Legislature. There are at least three critical assets for potential entrants to politics: time, the opportunity to leave a career which can easily be returned to once the Member leaves politics, and the endorsement of a political party. The first two preconditions are the primary filters which tend to exclude Ontarians who are not relatively affluent and do not belong to professions (such as teaching and the law) which can easily be returned to once the Member leaves public life. Whether democratic principle dictates that the composition of a legislature must literally mirror the socioeconomic conditions of the electorate has long been a contentious subject among students of politics. There can be no final answer to this perennial question. Certainly we can safely say that Members of the Ontario Legislature believe that they can adequately represent their constituency regardless of their background or origins.

A FULL-TIME JOB

Service in the provincial Legislature is now a full-time occupation for all Members, regardless of whether they are burdened with the extra duties of a cabinet minister or frontbench party leader. Three factors have contributed to this development. First, since the early 1970s Ontario has witnessed a "revival of responsible government."⁹ The minority Parliaments of 1975-81 and 1985-87 compelled the Government to pay more attention to the Legislature and encouraged Members from all three parties to call for a reduction in the influence of the Executive over the Legislature. Both the Conservative and Liberal Governments of the 1980s introduced procedural and institutional reforms designed to enhance the capacity of the Legislature to hold the Executive accountable. These changes included a dramatic improvement in the level of services available to Members at Queen's Park as well as substantial increases in their pay. Members now take their responsibilities as legislators more seriously than in the days of the part-time backbencher and are more financially able to regard politics as a full-time occupation. Secondly, as a result of the attitudinal changes brought on by minority government and also because of the large size of their constituencies (Ontario MPPs represent an average of about 77,000 constituents, the largest among provincial legislatures¹⁰), Members have lobbied for and received more resources to enable them to service their constituents more adequately, with concomitant increases in the amount of time they must spend on constituency casework. Finally, as the responsibilities of government have grown in Ontario as elsewhere, so has the length of the parliamentary session, to the point today where Members are required to be in attendance at Queen's Park for the better part of the year, usually from March until June and then again from late September to the middle of December, and to be available for committee work much of the rest of the time.

While those holding Cabinet or other positions have the resources of their offices to draw upon, backbenchers also have significant resources at their disposal. Overall, the Members of the Ontario Legislature are the best serviced of all provincial legislators.¹¹ Each Member is provided with an office in the Legislative Building or nearby and a budget for the hiring of staff. The Assembly also pays for each Member's postal and telephone charges, one or more constituency offices and non-partisan constituency newsletters. In pursuing their duties Members can draw on the information and research services of the Legislative Library, the advice of the Clerk of the Legislative Assembly, and the services of the legislative drafters in the Office of the Legislative Counsel.¹²

BACKBENCHERS AND THE LEGISLATIVE PROCESS

The Legislature meets Monday to Wednesday at 1:30 p.m., and on Thursday at 10:00 a.m.¹³ The normal parliamentary day is divided into two broad headings: Routine Proceedings and Orders of the Day, under which the main business of government is considered by the House. Routine Proceedings provides backbenchers with several opportunities to intercede on the floor of the House.¹⁴

During Members' Statements up to three backbenchers from each party are recognized by the Speaker to make a short statement on some aspect of public policy. Members' Statements are a backbench forum, from which party leaders are expressly barred. During Statements by the Ministry and Responses, cabinet ministers may make short statements announcing some government policy or action, followed by short comments in response by representatives of the opposition parties. Responses to Ministry Statements provide opposition Members who are their parties' critics for particular ministries with the opportunity to speak directly to the government frontbench, though they are expected to use their time to enunciate their parties' positions. Question Period in the Ontario Legislature, to a degree unusual in Canada, is dominated by the party leaders. The Standing Orders specify that questions start with two from the Leader of the Opposition, followed by two from the leader of the third party. Each leader is granted two supplementaries by the Speaker. Then questioning proceeds in rotation among the parties. Backbenchers tend to be granted one supplementary to their initial question. Moreover, leaders' questions and supplementaries tend to be longer than those of their backbenchers. Under this format, not surprisingly, the party leaders consume a significantly large proportion of the time available in Question Period. Nevertheless, Question Period is the single most important forum for backbenchers in the Legislature. It provides them with the opportunity to query freely the Premier and the cabinet about any aspect of public policy in Ontario.¹⁵ Finally, Petitions provide backbenchers with a forum for ventilating the grievances of their constituents.

Table Two below show how the parliamentary time available under Orders of the Day was spent in the 35th Parliament.

Session	TOTAL Sessional Days	Days debating government bills* & motions	Days debating the Throne Speech	Days debating the budget(s)	Emergency Debates	Non- confidence motion debates	Days debating the estimates	Days debating motions for interim supply or concurrence in supply	Opposition Days
34th Parl., 1st Session (1987-1989)	156	95	9	11	10	5	14	13	n/a**
2nd Session (1989-1990)	142	80	9	13	3	4	n/a**	7	9
35th Parl., 1st Session (1990-1991)	122	91	7	2	n/a**	3	n/a**	13	8
2nd Session (1992)	94	73	7	3	n/a**	3	n/a**	5	9
3rd Session (1993-1994)	169	144	7	10	n/a**	1	n/a**	8	12

* At second reading, in Committee of the Whole or at third reading.

** Not applicable due to amendments to the Standing Orders.

Note: More than one item can be considered in a sessional day. Also, on some days the time available is completely consumed by Routine Proceedings and business arising therefrom, such as consideration of questions of privilege.

The information presented in this table demonstrates how the Government controls the agenda of the Legislature. Under Orders of the Day most sessional days are spent considering Government business, whether it be a bill or motion, the contents of the Throne Speech, or the budget. It is only on Opposition days and days spent debating the terms of a motion of want of confidence in the Government that the House debates issues and priorities selected by the opposition. The table shows that during the 35th Parliament, on only 36 out of a total of 385 sessional days was the agenda controlled by the opposition parties. It must be remembered that as far as opposition backbenchers are concerned, the selection of topics on these days is the prerogative of their parties' leadership. As for government backbenchers, they must be content with participating in debates initiated by the cabinet or the opposition parties.

On the other hand, the Government cannot secure parliamentary authorization for its policies without permitting debate. The Throne Speech, which sets out its agenda, the budget, motions for supply, and public bills provide Members on both sides of the House with ample opportunity for debate, criticism and the expression of their own ideas. Thus, while it is formally correct to say that Government business dominates the legislative agenda, it is also true that debates on the Government program provide Members of the Legislature with the pretext for airing their own views on topics which at times can only be remotely connected to the matter under consideration.

The ultimate weapon at the disposal of opposition backbenchers is the filibuster. Any opposition in a Westminster style legislature can always find ways to interpret parliamentary procedure to consume time and obstruct the passage of Government legislation regardless of the formal terms of the Standing Orders. However, the changes to the Standing Orders introduced by the NDP Government in June 1992 have significantly reduced the capacity of the opposition to delay the passage of government legislation. The new Standing Order 24 imposes restrictions on the length of time Members may speak during debate. Another new Standing Order introduced in 1992, S.O. 46, formally empowers the Government to allocate the time available for debate on a Government bill or motion, under certain conditions.

Many of the NDP Government's most important legislative initiatives, such as the *Employment Equity Act*, the *Ontario Training and Adjustment Board Act*, the *Social Contract Act*, the *Ontario Casino Corporation Act*, the *Residents' Rights Act*, and the *Planning and Municipal Statute Law Amendment Act*, were passed under S.O. 46 time-allocation motions after debate on the legislation had already

consumed some time and the Government and opposition parties could not agree on how much longer the debate should continue.¹⁶

Private Members' Public Bills ¹⁷

While the Legislature is in session, two hours every Thursday morning are devoted to Private Members' Public Business.¹⁸ During this period a Member may move and debate a resolution on some aspect of public policy, or a motion for second reading of a public bill he or she has previously introduced in the House. Resolutions are usually couched in general terms which merely call upon the Government to consider a change in policy direction, and indeed often refer to matters beyond the province's jurisdiction. Public bills, on the other hand, are specific in their terms, directly affect some aspect of public policy and usually amend existing legislation.

The debate on the item selected by the Member is concluded with a vote. If the motion for second reading of a private Member's public bill is carried, the bill is carried on the Order Paper and may be called by the Government House Leader for consideration under Orders of the Day. Ordinarily two items are considered during the two hours on Thursday morning. Which Members' items are called for consideration is determined by a ballot conducted by the Clerk of the Assembly prior to the commencement of the session, in which all Members may enter their names for the draw.

Table Three shows how many resolutions were moved by private Members in the 35th Parliament and passed by the Legislature. Table Four then shows the number of second reading debates on private Members' public bills in the 35th Parliament and their disposition.

TABLE THREE
Private Members' Resolutions
Introduced/Passed & Success Rate (%)
35th Parliament (1990-95)

Session	NDP	Liberal	Conservative	Total
1st Session	7/7 (100%)	7/11 (64%)	5/7 (71%)	19/25 (76%)
2nd Session	10/10 (100%)	5/8 (63%)	3/7 (43%)	18/25 (72%)
3rd Session	13/13 (100%)	9/14 (64%)	7/11 (64%)	29/38 (76%)
Total	30/30 (100%)	21/33 (64%)	15/25 (60%)	66/88 (75%)

TABLE FOUR
Private Members' Public Bills
Moved at Second Reading/Passed & Success Rate (%)
35th Parliament (1990-95)

Session	NDP	Liberal	Conservative	Total
1st Session	11/11 (100%)	4/7 (57%)	9/12 (75%)	24/30 (80%)
2nd Session	4/4 (100%)	4/7* (57%)	4/5 (80%)	12/16 (75%)
3rd Session	15/15* (100%)	10/13 (77%)	11/14** (79%)	36/42 (86%)
Total	30/30 (100%)	18/27 (67%)	24/31 (77%)	72/88 (82%)

NOTE: the horizontal columns show the number of second reading motions for bills introduced but not necessarily debated in the session indicated. For example, in the first session NDP MPPs introduced 11 bills which eventually were debated at second reading, either in the first, second or third session

*includes two bills which were debated at second reading during Orders of the Day, and not on Thursday mornings

**includes four bills which were debated at second reading during Orders of the Day, and not on Thursday mornings

Tables Three and Four demonstrate that there is no significant difference between the number of resolutions brought forward during private Members' public business (88) and the number of bills Members chose to bring forward for debate at second reading on Thursday morning (80). (As the notes to Table Four above indicate, another eight bills were debated at second reading during Orders of the Day.) Moreover, there does not appear to be any significant differences among the parties: New Democrat backbenchers introduced 30 resolutions and moved second reading of 30 bills; Liberals introduced 33 resolutions and 27 second reading motions; and Conservatives introduced 25 resolutions and 31 second reading motions.

Members can only introduce resolutions on the Thursday mornings set aside for private Members' public business, but can introduce as many bills as they please during Routine Proceedings. It is common for Members to introduce in the House significantly more bills than can ever be considered at second reading during private Members' public business. Table Five below shows the total number of bills introduced by private Members in the 35th Parliament and passed by the Legislature.

TABLE FIVE
Private Members' Public Bills Introduced/Passed & Success Rate (%)
35th Parliament (1990-95)

Session	NDP	Liberal	Conservative	Total
1st Session	1/11 (9%)	1/23 (4%)	2/46 (4%)	4/80 (5%)
2nd Session	1/5 (20%)	2/14 (14%)	1/41 (2%)	4/60 (7%)
3rd Session	5/24 (21%)	4/37 (11%)	4/34 (12%)	13/95 (14%)
Total	7/40 (18%)	7/74 (9%)	7/121 (6%)	21/236* (9%)

NOTE: bills did not necessarily pass in the session in which they were introduced

*one bill was introduced by an Independent; it did not pass

Table Five above confirms a reality encountered by every backbencher whose ambition it is to leave a mark on the statute book: very few private Members' public bills are ever passed into law. In fact, the 21 bills which did survive the legislative obstacle course in the 35th Parliament constitute the largest such number in over half a century.¹⁹

Under the Standing Orders all private Members' public bills which receive second reading are automatically referred to a Committee of the Whole House unless a majority of Members vote to send them to a standing or select committee, or to proceed directly to third reading.²⁰ Members whose bills have received approval at second reading often request that their bill be sent to a standing committee instead of to a Committee of the Whole House. Table Six below shows the disposition of private Members' public bills in the 35th Parliament after they received second reading.

TABLE SIX
Disposition of Private Members' Public Bills
After Second Reading
35th Parliament (1990-95)

Session	Sent to Committee of the Whole	Considered	Sent to a standing committee	Considered	Sent Directly to Third Reading
1st	15	none	7	6	2
2nd	5	1	5	3	2
3rd	20*	5	14**	10	2

NOTE: the table only tracks the initial referral of bills to committees, and not the 5 bills which received consideration in both a standing committee *and* Committee of the Whole House

*two bills were discharged before consideration in Committee of the Whole, and sent directly to third reading

**one bill was discharged before consideration in a standing committee, and sent directly to third reading

Requests by Members to send their bills to a standing committee instead of to a Committee of the Whole House were refused by a majority in the House 21 times.²¹ Sixteen of the 21 requests were made by opposition Members. *Hansard* does not record the names of the Members voting for or against the motion to send a bill to a standing committee or Committee of the Whole, so it is impossible to determine conclusively whether the votes in these cases were on straight party lines. However, it can be inferred that they were, since it is to a Member's advantage and the Government's disadvantage to have a bill sent to a standing committee, where credible and expert witnesses can be called to testify about the merits of the proposed legislation (and concomitantly the deficiencies of the Government's position on it). Moreover, opposition Members regularly complain in the House about the fate of their bills and accuse the Government majority of deliberately blocking their attempts to have their bills referred to Standing Committees.²²

The extent to which bills are considered in standing committees varies, depending on the committee's timetable, the partisan nature of the bill, and the stage in the legislative session at which the bill was referred. It is uncommon for a governing party, which will usually have a majority of Members on a committee, to exert its influence in committee to block the reporting of a private Members' public bill back to the House for further consideration. On occasion the Member sponsoring the bill will agree that the committee should not pursue its consideration of the

bill, perhaps because he or she has been persuaded by his or her colleagues or a witness that the bill is unnecessary or undesirable.

Of the 72 private Members' public bills which received second reading in the 35th Parliament, only 22 were debated at third reading. However, all but one of these passed. The successful 21 are as follows.

TABLE SEVEN
Successful Private Members' Public Bills
35th Parliament

First Session

Bill	Subject Matter	Sponsoring MPP
Bill 18	protection of heritage properties	NDP
Bill 31	riding name change	Conservative
Bill 87	designated licence plates for volunteer firefighters	Liberal
Bill 124	mandatory use of bicycle helmets	Conservative

Second Session

Bill	Subject Matter	Sponsoring MPP
Bill 9	riding name change	Conservative
Bill 33	riding name change	Liberal
Bill 62	preservation of the Niagara Escarpment	NDP
Bill 92	regulation of sale of lottery tickets to young people	Liberal

Third Session

Bill	Subject Matter	Sponsoring MPP
Bill 6	municipality name change	NDP
Bill 18	chronic care patients allowed to use own TV	Liberal
Bill 21	protection of tenants leasing land for mobile homes/land lease community homes	NDP
Bill 104	protection for tenants when landlords fail to provide essential services	Conservative
Bill 147	official bird of Ontario	NDP
Bill 152	regulation of loan brokers	Liberal
Bill 170	legal protection for food bank donors & workers	Liberal
Bill 176	restricts use of Slow Moving Vehicle signs	NDP
Bill 179	increases liability of shippers of goods by motor carriers	NDP
Bill 183	regulation of street vendors in Metropolitan Toronto	Liberal
Bill 191	changes polling times for municipal elections	Conservative
Bill 192	permits volunteer firefighters to use flashing light on personal vehicles	Conservative
Bill 210	victims' rights to proceeds of crime	Conservative

Four of the 21, or almost 20%, simply changed the name of a riding or municipality. Such legislation is uncontroversial and usually passes expeditiously. The remainder address matters which are either relatively non-controversial, legislate on matters which do not divide the parties along partisan lines, or implement policy in areas where the Government of the day has not adopted a firm position.²³

The conclusion about private Members' Public Business to be drawn from the evidence presented here is that this procedure does not

empower backbenchers directly to shape public policy in Ontario. Most resolutions introduced by Members pass but they are not binding on the Government. A significant percentage of Members' bills pass at second reading, but usually do not receive further consideration. However, it must be added that in the 35th Parliament, the Legislature did pass an exceptionally large number of private Members' public bills, a reflection in large part of the NDP Government's commitment to consider such legislation seriously.²⁴

It does not follow, however, that private Members' Public Business is a waste of time. There is no shortage of Members from all three parties willing to participate on Thursday morning. In the 34th Parliament, on occasions when the House debated Government motions to waive the requirement of notice for an item to be considered during private Members' time, opposition Members demonstrated the seriousness with which they regard this stage in the parliamentary day. They indicated that the period of notice was important because it enabled them to prepare for the imminent debate by conducting research and contacting interest groups which might be interested in the forthcoming bill or resolution.²⁵

The following are some of the reasons why Members might want to introduce public bills:

- ▶ To educate the public about an issue and pressure the government to change the law, either by supporting the Member's bill, or by introducing legislation of its own. For example, Conservative MPP Cam Jackson has been a tireless advocate of the rights of victims of crime, and has introduced a number of bills on this subject in the 34th and 35th Parliaments. The NDP Government finally agreed to endorse his Bill 210, *Victims' Right to Proceeds of Crime Act, 1994*, which ensures that criminals do not profit from their crimes, in late 1994.
- ▶ To publicize the platform of the Member's party. In the 34th Parliament a number of NDP Members introduced bills which would have implemented the party's platform as approved at party conventions. For example, Bob Mackenzie introduced bills which would have increased the minimum wage, and Bob Rae introduced a bill which would have compelled the private sector to adopt employment equity. Both policies were implemented by the NDP Government in the 35th Parliament.
- ▶ To encourage the Government to take action on an issue which is relatively non-partisan, or on which the Government of the day

has not yet taken a public position. As noted above, a number of bills adopted in the 35th Parliament fall into this category, such as Steve Mahoney's bill forbidding the sale of lottery tickets to young people, David Ramsay's bill permitting chronic care patients to bring their own television sets into their hospital rooms, and Dianne Cunningham's bill making the use of bicycle helmets mandatory.

- ▶ To service the needs of a Member's constituents, constituency, or region. An example from the 35th Parliament was David Winninger's bill controlling the demolition of historic buildings in the City of London, which is the principal urban community in his riding of London South.
- ▶ To draw public attention to a novel idea or reform and mobilize popular support for it. For example, it is widely agreed that an important factor leading to the creation of the Office of the Ombudsman by the Davis Government was the perennial introduction by Liberal MPP Vernon Singer of an ombudsman bill, which not only generated interest in the concept but also won over a number of cabinet ministers.²⁶

BACKBENCHERS AND COMMITTEES

Parliamentary committees are often touted as a forum in which backbenchers can put aside partisan considerations in order to work together to oversee the Executive and formulate policies on their own initiative. They provide Members with the opportunity to summon ministers and civil servants and question them about Government policy, and to travel the province to hear from interest groups and ordinary citizens about the issues of the day.

Some committees offer more opportunities to the policy-oriented backbencher than others. The committee stage of Government bills is usually taken in one of the four omnibus standing committees - on the Administration of Justice, General Government, Resources Development and Social Development - such that Members on these committees must devote much energy to the study of Government legislation. Debate on Government bills in committee tends to be dominated by partisan considerations, just as it is on the floor of the Chamber.

The mandates of other committees offer less scope for Members interested in pursuing general issues of policy. The Standing Committee on the Ombudsman, for instance, may contemplate important questions of policy, but only as they arise out of its study of how the Ombudsman has handled specific cases, a task somewhat akin to the constituency casework with which all Members are familiar. The work of the Standing Committee on the Legislative Assembly, which is responsible for reviewing the operation of the Standing Orders and the administration of the Legislature, is important but it is relatively narrow in scope. The Standing Committee on Regulations and Private Bills, which considers private Members' private bills and scrutinizes the legality of regulations, deals with matters which many Members might well regard as technical and specialized.

Members intent on contributing to the historic function of the Legislature as the forum in which the Executive is held accountable are likely to be attracted to the Standing Committees on Government Agencies, Public Accounts and Estimates. In these committees Members study the operation, management and spending of ministries, agencies, boards and commissions. The reports of these Committees regularly offer wide-ranging and informed critiques of virtually every aspect of public administration in Ontario.

Members who wish to make their mark by focusing their efforts on particular areas of policy often aspire to serve on select committees. Select committees are appointed in each Parliament to inquire into matters referred to them by the House. Ordinarily they meet during any Recess or Adjournment. In recent years activist select committees have become a fixture on the parliamentary scene in Ontario. For example, in the 34th Parliament the Select Committee on Education issued a series of reports which generated much discussion and some controversy among educators across the province. This Committee managed to produce bipartisan studies which both criticized existing Government policy and offered solutions to the problems they identified.

One of the procedural reforms agreed to in the summer of 1989 significantly enhanced the role of backbenchers serving on Standing Committees. Under the amended Standing Orders, each member of the sub-committees of the Standing Committees on the Administration of Justice, General Government, Resources Development and Social Development can designate subjects which the Committees are obliged to consider regardless of the wishes of the Government.²⁷ In the 35th Parliament, 11 committee reports were issued under the authority of this Standing Order, covering such topics as the closure of land

registry offices, service delivery at the Workers' Compensation Board, children's mental health services, the Ontario Student Assistance Plan, access to dialysis treatment in Ontario, and the treatment of victims of crime by the legal system.

Committees in Ontario suffer from one serious weakness. There is nothing in the Standing Orders to compel the Government to allow their reports to be debated on the floor of the Chamber. Debate on committee reports (other than reports on Government bills) are rare. Like private Members' bills, therefore, committee reports usually have no direct and immediate impact on the policy process. But committee work does serve several useful purposes for backbenchers. Committees provide Members with an arena in which they can publicize their own ideas and those of their parties, criticize the Government, demonstrate to constituents that they are working on their behalf, fine tune existing Government policies, develop expertise which can be put to work in other forums in the Legislature, and impress their party leadership as potential cabinet material. If nothing else, involvement in committees can encourage Members to think hard about the complex nature of policy questions and the difficulties any government encounters - including one in which they may eventually serve - in translating public needs into legislation.

CONCLUSION

The legislative schedule offers backbenchers a variety of forums in which to be active. Working within the constraints of party politics, backbenchers can play a variety of roles. Members can choose to be a partisan political combatant, intent on exploiting every opportunity to flay or defend the Government; a policy maker active in committees and legislative debates, primarily interested in influencing government legislation regardless of short-term political credit; a crusader for accountability in government, in committee and on the floor of the House; or a constituency caseworker, who takes advantage of every opening for pressing the needs of his or her constituents upon the Government, inside and outside of the House.

In practice Members must spend some time and energy pursuing all of these roles. To perform them all with any degree of success they must cultivate a formidable array of skills and talents. The potential workload is so overwhelming that all Members, no matter how energetic, must select some priorities. As one British scholar puts it, backbenchers produce their own job descriptions simply through the

choices they make as to which roles are the most important.²⁸ The precise mix a Member selects will be shaped by factors such as whether he or she sits on the government or opposition benches, whether or not he or she represents a safe or marginal constituency, personal ambition, and ideological conviction.

NOTES

¹ For the purposes of this paper, a backbencher is defined as one of the eighty or so Members of the Ontario Legislature who do not hold Ministerial Office, a leadership position in one of the opposition parties, or an official position in the House such as the Speakership. It is important to point out that no sharp distinction can be drawn between the "frontbench" and "backbench" of the opposition parties represented in the Legislature.

It should be noted that all Members of the Legislature are required to comply with the *Members' Conflict of Interest Act*, S.O. 1988, c. 17, now R.S.O. 1990, c. M.6. Under this Act Members and their spouses are required to file with the Commissioner on Conflict of Interest complete information regarding their income, assets, financial interests and liabilities.

² Herman Finer, *The Theory and Practice of Modern Government*, rev. ed. (New York: H. Holt, 1949), p. 237.

³ Peter North's 1995 election as an Independent in Elgin was the first victory for a candidate formally running as an Independent in a provincial general election since 1934.

In the 1995 election, 61 candidates formally ran as Independents; in the 1990 election, there were 25. In 1995 a total of 201 candidates ran for parties other than the three which dominate the Legislature, an increase of two from the 1990 figure. However, the 1995 figure included 68 candidates representing the Natural Law Party, which did not contest the 1990 election. The number of candidates running for the so called "fourth parties" which contested both the 1990 and 1995 elections dropped from 199 in 1990 to 133 in 1995. See *Ottawa Citizen*, "Independents run in record numbers," 3 June 1995, p. C2.

⁴ Austin Mitchell, *Westminster Man: A Tribunal Anthropology of the Commons People* (London: Methuen, 1982), p. 279.

⁵ For a discussion of the law affecting how elected officials can move from one level of government to another see Avrum Fenson, *Changing House: The Law in Canada Affecting a Move from One Elected Office to Another*, Current Issue Paper No. 160 (Toronto: Legislative Research Service, Legislative Library, 1995).

⁶ Graham White, *The Ontario Legislature: A Political Analysis* (Toronto: University of Toronto Press, 1989), p. 32.

⁷ According to press reports, a significant proportion of the Conservative MPPs elected in 1995 for the first time have small business backgrounds. See Martin Middlestaedt, "New Ontario Tory caucus brings small-business credentials," *Globe and Mail*, 19 June 1995, p. A5.

⁸ Peter G. Richards, *The Backbenchers* (London: Faber and Faber, 1972), p. 11.

⁹ Graham White, *The Ontario Legislature: A Political Analysis*, p. 9.

¹⁰ This average is based on the population figures published in the *Canada Year Book 1994*. Each MP in the House of Commons represents an average of 92,888 Canadians. Among the provinces, Quebec MLAs have the second largest constituencies after Ontario's: each Member of the Quebec National Assembly represents 55,401 citizens on the average.

¹¹ See Ontario, Legislative Assembly, Office of the Assembly, *Guide to Members' Allowances and Services and Members' Support and Caucus Staff* (Toronto: The Office, May 1994).

¹² For more details on the resources available to Members see Andrew McNaught, *The Offices and Commissions of the Legislative Assembly*, Current Issue Paper No. 161 (Toronto: Legislative Research Service, Legislative Library, 1995), and David Pond, *The Ontario Legislature: An Overview*, Current Issue Paper No. 105 (Toronto: Legislative Research Service, Legislative Library, 1995).

¹³ Ontario, Legislative Assembly, Office of the Clerk, *Standing Orders of the Legislative Assembly* (Toronto: The Office, 1992), Standing Order 8(a).

¹⁴ See generally *ibid.*, chapter VIII.

¹⁵ Under Standing Order 34, when a Member is not satisfied with a reply to an oral question he or she may raise the subject-matter of the question on the adjournment of the House on Tuesday and Thursday evenings. On such occasions the Member is allotted five minutes to debate the matter and the Minister or his or her Parliamentary Assistant receives five minutes to reply. The total time allowed for such debates is 30 minutes. In the third session of the 35th Parliament, which covered 169 sessional days, 8 MPPs raised 13 issues which were debated on the adjournment of the House.

Members may also place written questions on the Order Paper seeking information from a Minister. See chapter XVIII of the Standing Orders for details of this procedure. During the third session of the 35th Parliament Members placed 614 written questions on the Order Paper.

¹⁶ Prior to the introduction of Standing Order 46 it was possible for the Government to introduce a motion which unilaterally prescribed the amount of debating time available, even though the Standing Orders did not explicitly provide for such a procedure. See Roderick Lewis, *The House Was My Home* (Toronto: Queen's Printer, 1987), pp. 103-106. The first such motion was introduced by the Davis Government in December 1982: subsequently, two other bills were "guillotined" by the Conservatives during the 32nd Parliament (1981-84). In the 33rd (1985-87) and 34th (1987-90) Parliaments the Liberal Government passed five bills under time-allocation. The NDP Government passed two bills under time-allocation motions before introducing S.O. 46. However, with the introduction of S.O. 46 in 1992 the NDP signalled to the opposition that in its judgement it was now necessary for such a procedure to become a regular facet of the legislative process. In the third session of the 35th Parliament (1993-94), 15 Government bills were passed under S.O. 46 - a greater number than were passed under time-allocation motions

in the entire decade of the 1980s.

Not surprisingly, the opposition parties opposed the introduction of Standing Orders 24 and 46. For a debate on their merits see Ontario, Legislative Assembly, *Hansard: Official Report of Debates*, 35th Parliament, 2nd Session (19 November 1992): 3339-3342.

¹⁷ This paper does not discuss the backbenchers' role in the passage of Private Bills. See chapter XVI of the Standing Orders for an explanation. Private Bills are introduced periodically in the Legislature in batches and are quickly passed without debate.

¹⁸ See *ibid.*, chapter XVII.

¹⁹ See F.F. Schindeler, *Responsible Government in Ontario* (Toronto: University of Toronto Press, 1969), pp. 177-180.

²⁰ Standing Order 96(k).

²¹ On another occasion the Member requested that the bill be sent directly to third reading. The House rejected this request and sent the bill to Committee of the Whole. See Ontario, Legislative Assembly, *Hansard: Official Report of Debates*, 35th Parliament, 1st Session (12 December 1991): 4168.

²² For examples from the 35th Parliament see Ontario, Legislative Assembly, *Hansard: Official Report of Debates*, 35th Parliament, 1st Session (20 December, 1990): 2972; (6 June 1991): 1753; 2nd Session (9 July 1992): 1957, and (10 December 1992): 4159. Occasionally, opposition Members will complain about Government Members who vote for second reading of their bill, but then vote to block its assignment to a standing committee. See *Hansard: Official Report of Debates*, 35th Parliament, 2nd Session (25 June 1992): 1676.

²³ A possible exception is Bill 210, *Victims' Right to Proceeds of Crime Act, 1994*, which was authored by Cam Jackson, MPP (PC - Burlington South). According to press reports, the NDP Government was initially hesitant to support this bill, but did so eventually because of public opinion. See Thomas Walkom, "Tale of the benevolent prince won't always end happily," *Toronto Star*, 15 December 1994, p. A27.

²⁴ See the remarks of the then Government House Leader Dave Cooke in *Hansard: Official Report of Debates*, 35th Parliament, 2nd Session (19 November 1992): 3387.

²⁵ See the discussion in *Hansard: Official Report of Debates*, 34th Parliament, 2nd Session (20 February 1989): 8370-8373.

²⁶ Graham White, *The Ontario Legislature: A Political Analysis*, p. 137. For background see Paul Murray, *The Ombudsman: Historical Development, Different Models and Common Problems*, Current Issue Paper No. 153 (Toronto: Legislative Research Service, Legislative Library, 1994), pp. 3-4.

²⁷ Standing Order 125.

²⁸ Lisanne Radice et al., *Member of Parliament - The Job of a Backbencher* (New York: St. Martin's Press, 1987), p. xii.

